

BOARD OF CITY COMMISSIONERS
Fargo, North Dakota

Regular Meeting: Monday: March 23, 2009:

The Regular Meeting of the Board of City Commissioners of the City of Fargo, North Dakota, was held in the City Commission Room at City Hall at 5:00 o'clock p.m., Monday, March 23, 2009.

The Commissioners present or absent were as shown following:

Present: Mahoney, Piepkorn, Walaker.

Absent: Williams, Wimmer.

Mayor Walaker presiding.

Order of Agenda Approved:

Commissioner Piepkorn moved the Order of the Agenda be approved delaying Item No. 7 in the Regular Agenda to April 6, 2009.

Second by Mahoney. All the Commissioners present voted aye and the motion was declared carried.

Minutes Approved:

Commissioner Mahoney moved that the Minutes of the Regular Meeting of the Board held on March 9, 2009 be approved as read.

Second by Piepkorn. All the Commissioners present voted aye and the motion was declared carried.

Consent Agenda Approved:

Commissioner Piepkorn moved the Consent Agenda be approved as follows:

- a. Waive the requirement to receive and file an ordinance one week prior to 1st reading and 1st reading of the following Ordinances:
 - (1) Amending Section 10-0318 of Article 10-03 of Chapter 10 of the Fargo Municipal Code Relating to Breaches of Peace and Order.
 - (2) Amending Article 3-20 of Chapter 3 of the Fargo Municipal Code Relating to Imposition of a Sales, Use and Gross Receipts Tax (Infrastructure Capital Improvements).
- b. 2nd reading, waive reading and final adoption of an Ordinance Amending Section 8-1006 of Article 8-10 and Section 8-1606 of Article 8-16 of Chapter 8 of the Fargo Municipal Code Relating to Parking Tickets; 1st reading, 3/9/09.
- c. Direct City Attorney to draft an Ordinance Relating to the National Electrical Code.
- d. Applications for three-year tax exemptions for improvements made to buildings:

- (1) Bradly and Sonja Kjar, 2935 2nd Street North.
 - (2) Jeffrey and Mona Johnson, 2316 15th Street South, C-12.
- e. Change Order No. 1 for an increase of \$55.00 for the GTC Lighting Modifications.
- f. Site Authorizations for Games of Chance:
- (1) North Dakota Childhood Language Disorder Center – Fargo at the Fargo Masonic Center on 9/19/09.
 - (2) National Multiple Sclerosis Society – Dakota Chapter at TGIF Fridays from 3/15/09 to 6/30/09.
- g. Applications for Games of Chance:
- (1) Tau Sigma Delta for a raffle on 3/27/09.
 - (2) El Zagal Arab Patrol for a raffle on 5/14/09.
 - (3) Lincoln Elementary School for bingo on 4/4/09.
 - (4) Clara Barton/Hawthorne PTA for bingo on 3/28/09.
 - (5) North Dakota Bowhunters' Association for a raffle on 4/4/09.
 - (6) Rod Stecher Benefit and Silent Auction for a raffle on 4/4/09; Public Spirited Resolution.
- h. Request for Proposals for paratransit software.
- i. Contract amendment for Project No. 5499.
- j. "Lease of Rights to Sewer System" with the City of Harwood.
- k. Bid award for Project No. 5866 to Roadway Services, Inc. in the amount of \$53,270.
- l. Bid advertisement for Project Nos. 5869, 5870 and 5656.
- m. Change Order No. 1 for an increase of \$48,752 for Project No. 5747-06.
- n. Final Balancing Change Order for an increase of \$4,141.13 for Project No. 5811.
- o. Contract and bond for the Main Library signage and Project No. 5728.
- p. Bills in the amount of \$3,456,645.04.

Second by Mahoney. On call of the roll Commissioners Piepkorn, Mahoney and Walaker voted aye.

Absent and not voting: Commissioners Williams and Wimmer.

The motion was declared carried.

No Protests Received for Seal Coat and Incidentals Improvement District No. 5864:

The Statutory Resolution of Necessity for the construction of Seal Coat and Incidentals Improvement District No. 5864 in the City of Fargo, North Dakota, was duly published in the official newspaper for the City of Fargo, North Dakota on February 16 and 23, 2009 and no protests have been filed in the office of the City Auditor within the legal protest period.

Commissioner Piepkorn moved that the Board declare that no protests have been filed to the construction of Seal Coat and Incidentals Improvement District No. 5864.

Second by Mahoney. On call of the roll Commissioners Piepkorn, Mahoney and Walaker voted aye.

Absent and not voting: Commissioners Wimmer and Williams.

The motion was declared carried.

Bids Received for Seal Coat and Incidentals Improvement District No. 5864:

The bids for Seal Coat and Incidentals Improvement District No. 5864 in the City of Fargo, North Dakota were opened at 11:30 o'clock a.m., March 18, 2009 and the bids were found to be as follows:

Astech Corporation	St. Cloud, MN
Bid:	\$366,831.99

Pearson Brothers, Inc.	Hanover, MN
Bid:	\$409,512.72

Contract for Seal Coat and Incidentals Improvement District No. 5864 Awarded to Astech Corporation in the Amount of \$366,831.99:

Commissioner Piepkorn offered the following Resolution and moved its adoption:

WHEREAS, The City Engineer has prepared and filed a detailed statement of the estimated costs of Seal Coat and Incidentals Improvement District No. 5864; and

WHEREAS, The Board of City Commissioners of the City of Fargo has considered the bids received March 18, 2009 for Seal Coat and Incidentals Improvement District No. 5864 in the City of Fargo, North Dakota; and

WHEREAS, The City Engineer's tabulation of the bids received for Seal Coat and Incidentals Improvement District No. 5864 shows the bid of Astech Corporation of St. Cloud, Minnesota, in the sum of \$366,831.99 to be the lowest and best bid received.

NOW, THEREFORE, BE IT RESOLVED, That the Board of City Commissioners finds and declares the bid received from Astech Corporation in the sum of \$366,831.99 is the lowest and best bid received.

BE IT FURTHER RESOLVED, That the contract for Seal Coat and Incidentals Improvement District No. 5864 in the City of Fargo, North Dakota, be and the same is hereby awarded to Astech Corporation for the sum of \$366,831.99, subject to the supervision, inspection and approval of the City Engineer, and in accordance with the Plans and Specifications filed in the office of the City Auditor.

Second by Mahoney. On the vote being taken on the question of the adoption of the Resolution Commissioners Piepkorn, Mahoney and Walaker voted aye.

Absent and not voting: Commissioners Wimmer and Williams.

The Resolution was declared adopted.

Drain 10 Flood Mitigation and Incidentals Improvement District No. 5525 (3300 Block of 1st Avenue North and 3200 Block of 12th Avenue North):

Commissioner Piepkorn moved the following action be taken in connection with Drain 10 Flood Mitigation and Incidentals Improvement District No. 5525:

Adopt Resolution Creating Improvement District No. 5525:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5525, in the City of Fargo, North Dakota, be created

Storm sewer retention basin & storm sewer pipe upgrade at the following locations:

3300 Block of 1st Avenue North – Expanding the existing drainage ditch to a storm water detention pond.

3200 Block of 12th Avenue North – Adding large diameter pipes under BNSF railroad tracks.

COMPRISING:

All of Great Northern 3rd Addition.

Lots 1 through 14, inclusive, Block 1.

Lots 1 through 8, inclusive, Block 2.

Lots 1 through 4, inclusive, Block 3.

All in Goldberg Addition No. 1 and adjacent vacated right-of-ways.

Lots 1 through 6, inclusive, Block 1.

Lots 1 through 3, inclusive, Block 2.

All in the replat of Interstate Services Subdivision.

Lots 1 and 2, Block 1 and adjacent vacated right-of-ways.

All in Mickey's 1st Addition.

Lot 1, Block 1 and adjacent vacated right-of-ways.

Lots 1 through 7, inclusive, Block 2.

Lot 1, Block 3 and adjacent vacated right-of-ways.

All in Great Northern 5th Addition.

Lots 1 through 5, inclusive, Block 1.

All in the replat of RWA Addition.

Lots 1 through 4, inclusive.

All in Meadow Park Addition.

Lots 1 through 38, inclusive, Block 1.

Lots 1 through 19, inclusive, Block 2.
All in Madison Subdivision.

Lots 2 through 15, inclusive, Block 1.
Lots 2 through 21, inclusive, Block 2.
Lots 2 through 21, inclusive, Block 3.
Lots 2 through 21, inclusive, Block 4.
Lots 1 through 24, inclusive, Block 13.
Lots 1 through 24, inclusive, Block 14.
Lots 1 through 24, inclusive, Block 15.
Lots 1 through 24, inclusive, Block 16.
Lots 1 through 28, inclusive, Block 17.
Lots 1 through 28, inclusive, Block 18.
Lots 1 through 28, inclusive, Block 19.
Lots 1 through 28, inclusive, Block 20.
Lots 1 through 18, inclusive, Block 29.
Lots 1 through 18, inclusive, Block 30.
Lots 1 through 18, inclusive, Block 31.
Lots 1 through 18, inclusive, Block 32.
All in College 2nd Addition.

Lots 1 through 19, inclusive, and 21 through 40, inclusive, Block 1.
Lots 1 through 14, inclusive, Block 2.
Lots 1 through 15, inclusive, Block 3.
All in Model Cities Subdivision.

Lots 1 through 4, inclusive, Block 1.
Lots 1 through 3, inclusive, Block 2.
Lots 1A and 1 through 5, inclusive, Block 3.
Lots 1 through 12, inclusive, Block 4.
Lots 1A and 1 through 5, inclusive, Block 5.
Lots 1 through 20, inclusive, Block 6.
Lots 1A and 1, Block 7.
Lots 1 through 10, inclusive, Block 8.
All in Stuart Hilleboe Subdivision.

Lots 1, 2, 3 and 6.
All in Golden Ridge Addition.

Lots 1 through 25, inclusive.
All in Great Northern First Addition.

Lots 5 through 23, inclusive, Block 11 and adjacent vacated right-of-ways.
Lots 8 through 18, inclusive, Block 12 and adjacent vacated right-of-ways.
Lots 12 through 14, inclusive, Block 13 and adjacent vacated right-of-ways.
Lots 15, 16 and 18, Block 25 and adjacent vacated right-of-ways.
Lots 11, 13 through 16, and 18 through 22, Block 26 and adjacent vacated right-of-ways.

Lots 6 through 11, 13 through 16 and 18 through 23, Block 27 and adjacent vacated right-of-ways.

Lots 1 through 11 and 18 through 28, Block 28 and adjacent vacated right-of-ways.

Lots 1 through 11 and 18 through 28, Block 29 and adjacent vacated right-of-ways.

Lots 1 through 11 and 18 through 28, Block 30 and adjacent vacated right-of-ways.

Lots 1, 2, 17 and 18, Block 34 and adjacent vacated right-of-ways.

Lots 1, 2, 17 and 18, Block 35 and adjacent vacated right-of-ways.

Lots 17 and 18, Block 36.

All in Beardsley's Addition.

Lots 1 through 21, inclusive.

All in First Industrial Subdivision.

Lots 11 through 20, inclusive, Block 7 and adjacent vacated right-of-ways.

Lots 1 through 20, inclusive, Block 8.

Lots 1 through 6 and 21 through 26, inclusive, Block 9.

Lots 21 through 26, inclusive, Block 10 and adjacent vacated right-of-ways.

All in Tyler's Addition.

Lots 1 through 6, inclusive, Block 1.

Lots 1 through 8, inclusive, Block 2.

Lots 1 through 11, inclusive, Block 3.

Lots 1 through 6, inclusive, Block 4.

All in Schultz and Lindsay's 1st Addition.

Lots 1 through 23, inclusive.

All in Teigen's Subdivision.

Lots 1 through 5, 9 through 12 and 17 through 56, inclusive, Block 1 and adjacent vacated right-of-ways.

All in Teigen's 2nd Subdivision.

All of Great Northern 4th Addition.

Lots 1 through 23.

All in Goodman's Subdivision.

All of Northern Pacific Railroad Industrial Sites.

Lots 1 through 6, inclusive, Block 1.

Lot 1, Block 2.

All in Pentas Addition.

Lot 1, Block 1.

All in Lavelle First Addition.

Lots 1 through 7, inclusive, Block 1 and adjacent vacated right-of-ways.
All in Master Addition.

Lots 1 and 2, Block 1.
All in Timber Addition.

Lot 1, Block 1.
Lot 1, Block 2.
All in Cass County Corrections Addition.

Lots 1 through 5, inclusive, Block 1.
Lots 1 through 8, inclusive, Block 2 and adjacent vacated right-of-ways.
Lots 1 through 7, inclusive, Block 3.
Lots 1, 2, 3, 5 and 6, Block 4.
Lot 2, Block 6.
Lots 1 through 21, inclusive, Block 7.
Lots 1 through 11, inclusive, Block 8.
Lots A, B, C, D, E, F, G, H, I, J, K, L and O.
All in Burlington Northern I-29 South Industrial Center Addition.

Lot 1, Block 1.
All in Truck Center Addition.

Lots 1 and 2, Block 1.
All in Pulkrabek's 1st Addition.

Lots 1 through 4, inclusive, Block 1.
Lot 1, Block 2.
All in Runck's First Addition.

Lot 1, Block 1.
All in Muscatell Subdivision.

Lots 1, 2 and 3, Block 1.
All in Boehm Addition.

Lots 1, 2, 4 and 5, Block 1.
Lots 1 through 3, inclusive, Block 2.
Lot 1, Block 3.
Lots 1 through 12, inclusive, Block 4.
All in Interstate Park Addition.

Lot 1, Block 1.
All in AJ's Addition.

Lot 1, Block 1.
All in Helenske's 1st Addition.

Lots 1 through 4, inclusive, Block 1.
Lots 1 through 9, inclusive, Block 2.
Lots 1 and 2, Block 3.
Lots 1, 2 and 3, Block 4.
Lots 1 through 8, inclusive, Block 5.
All in Westrac 1st Addition.

Lots 1 through 4, inclusive, Block 1.
Lots 1 through 5, inclusive, Block 2.
Lots 1 through 17, inclusive, Block 3.
Lots 1 through 7, inclusive, Block 4.
Lot 1, Block 5.
All in Westrac 2nd Addition.

Lots 6 and 7, Block A.
Lots 8 and 9, Block B.
All in Morton's Subdivision.

Lots 1, 2 and 3, Block 1.
All in Sisters of Mary Addition.

Lots 1 through 8, inclusive, Block 1.
Lots 1 and 2, Block 2.
Lots 1, 2, 3 and 6, Block 3.
All in Centrac Addition.

Lots 1, 2 and 3, Block 1.
All in Force Addition.

Lots 1 through 7, inclusive, Block 1.
Lots 1 through 8, inclusive, Block 2.
All in McVets Addition.

Lots 1 through 7, inclusive, Block 1.
Lots 1 through 8, inclusive, Block 2.
All in Pete's Addition.

Lots 1, 2 and 3, Block 1.
Lot 1, Block 2.
All in Tennefos Addition.

Lots 1, 2 and 3, Block 1.
Lots 1 through 6, inclusive, Block 2.
Lot 1, Block 3.
Lots 1 and 2, Block 5 and adjacent vacated right-of-ways.
All in Tennefos' 1st Addition.

Lots 1 through 4, inclusive, Block 1.
Lots 1 through 7, inclusive, Block 2.
Lots 1 through 11, inclusive, Block 1A.
Lots 1 through 4, inclusive, Block 2A.
Lots 1 through 26, inclusive, Block 4.
Lots 1 through 21, inclusive, Block 5.
Lots 1 through 20, inclusive, Block 6.
Lots 1 through 17, inclusive, Block 8.
Lots 1 through 11, inclusive, Block 9.
Lots 1 through 26, inclusive, Block 10.
Lots 1 through 25, inclusive, Block 11.
Lots 1 through 17, inclusive, Block 12.
Lots 1 through 13, inclusive, Block A.
Lots 1 and 2, Block B.
All in Westgate Village Addition.

Lots 1 through 12, inclusive, Block 1.
Lots 1 through 8, inclusive, Block 2.
All in Westgate Park Addition.

Lots 1 through 13, inclusive, Block 1.
Lots 1 through 22, inclusive, Block 2.
Lots A and B, Block 1.
Lots A and B, Block 2.
All in Cobblestone Court Addition.

Lot 1, Block 1.
Lots 1 through 8, inclusive, Block 2 and adjacent vacated right-of-ways.
Lots 1 and 2, Block 3.
All in Saks Addition.

Lots 1 through 11, inclusive, Block 1.
Lots 1 through 12, inclusive, Block 3.
Lots 1 through 8, inclusive, Block 4A.
Lots 1 through 9, inclusive, Block 4B.
Lots 1 through 10, inclusive, Block 4C and adjacent vacated right-of-ways.
Lots 1 through 10, inclusive, Block 4D.
All in Hub Addition and its replats.

Lot 1.
All in South Meadows Subdivision.

Lots 1 through 17, inclusive, Block 1.
All in Prairie South Addition.

Lots 30 through 34, inclusive, Block 2.
All in Ames Addition

Lots 1 through 9, inclusive, Block 1.
Lots 4 through 14 and 19 through 29, inclusive, Block 2.
Lots 1 through 16, inclusive, Block 7.
Lot 1, Block 8.
Lots 1 through 16, inclusive, Block 9.
Lots 2 through 9, inclusive, Block 10.
Lots 1 through 18, inclusive, Block 11.
Lot 1, Block 12.
Lots 1 through 14, inclusive, Block 13.
Lots 1 through 30, inclusive, Block 14.
Lot 1, Block 16.
Lots 1 through 43, inclusive, Block 17.
Lot 1, Block 18.
Lots A, B, E, F, G, and H.
All in Prairiewood Addition and its replats.

Lots 1 through 7, inclusive, Block 1.
Lots 1 through 5, inclusive, Block 2.
Lots 1, 2, 5 and 6, Block 3.
Lots 1 through 25, inclusive, Block 1 of replat of portion of Block 3.
All in Dakota Land Addition and it's replat.

Lots 1 through 16, inclusive, Block 1.
All in Points West Addition.

Lots 1 through 9, inclusive, Block 1.
All in Points West 2nd Addition.

All of the unplatted described as follows:

In Section 35, Township 140 North, south of BNSF Railroad track.

In Sections 2, 11 and 14, Township 139 North.

All of the foregoing located in Range 49 West of the 5th Principal Meridian, City of Fargo, Cass County, North Dakota.

NOW, THEREFORE, BE IT RESOLVED, That Drain 10 Flood Mitigation and Incidentals Improvement District No. 5525, in the City of Fargo, North Dakota, be and the same is hereby created.

Request Report and Estimate of Cost From the City Engineer for Improvement District No. 5525:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5525, in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$1,331,955.)

Order Plans and Specifications for Improvement District No. 5525:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5525, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5525:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5525, in the City of Fargo, North Dakota, as required by law; and

WHEREAS, Plans and Specifications and the Engineer's Report prepared by the City Engineer, have been considered.

NOW, THEREFORE, BE IT RESOLVED, That the Plans and Specifications and Engineer's Report for the construction of Improvement District No. 5525, in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring Drain 10 Flood Mitigation and Incidentals Necessary:

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

That it be and is hereby declared necessary to construct Drain 10 Flood Mitigation & Incidentals Improvement District No. 5525 in the City of Fargo, North Dakota, according to the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection.

That the entire cost of said improvement be specially assessed against the benefited property in said improvement district in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed Drain 10 Flood Mitigation & Incidentals must be in writing and must be filed with the City Auditor's Office within 30 days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. 5525:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5525, in the City of Fargo, North Dakota.

Second by Mahoney. On call of the roll Commissioners Piepkorn, Mahoney and Walaker voted aye.

Absent and not voting: Commissioners Wimmer and Williams.

The motion was declared carried.

Shared Use Path Improvement District No. 5838 (Various Locations in South Fargo):

Commissioner Piepkorn moved the following action be taken in connection with Shared Use Path Improvement District No. 5838:

Adopt Resolution Creating Improvement District No. 5838:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, deems it expedient that Improvement District No. 5838, in the City of Fargo, North Dakota, be created

On 52nd Avenue (north side) from Drain 27 to 6th Street South.

On 40th Avenue (south side) from Drain 27 to the Sheyenne River.

Along WAPA power line from Drain 27 to 53rd Street South.

Pedestrian Bridge over Drain 27 from Osgood Townsite 7th Park to WAPA power line.

Along 53rd Street from WAPA power line thru West Fargo Kindergarten Park to 44th Avenue South

COMPRISING:

All of the land lying in the Southeast quarter and North half of Section 32, Township 139, Range 49 (bounded on the West by the Sheyenne River).

All land lying in Section 33 Township 139, Range, 49.

All foregoing land lying in the City of Fargo, Cass County, North Dakota.

NOW, THEREFORE, BE IT RESOLVED, That Shared Use Path Improvement District No. 5838, in the City of Fargo, North Dakota, be and the same is hereby created.

Request Report and Estimate of Cost From the City Engineer for Improvement District No. 5838:

Direct City Engineer to report as to the general nature, purpose and feasibility relative to the construction of Improvement District No. 5838, in the City of Fargo, North Dakota; as well as an estimate of the approximate cost of said construction. (The Engineer's estimate of cost is \$985,000.)

Order Plans and Specifications for Improvement District No. 5838:

Direct City Engineer to prepare Plans and Specifications for the construction of Improvement District No. 5838, in the City of Fargo, North Dakota.

Adopt Resolution Approving Plans and Specifications and Engineer's Report for Improvement District No. 5838:

WHEREAS, The Board of City Commissioners of the City of Fargo, North Dakota, has created Improvement District No. 5838, in the City of Fargo, North Dakota, as required by law; and

WHEREAS, Plans and Specifications and the Engineer's Report prepared by the City Engineer, have been considered.

NOW, THEREFORE, BE IT RESOLVED, That the Plans and Specifications and Engineer's Report for the construction of Improvement District No. 5838, in the City of Fargo, North Dakota, be and the same are hereby approved and ordered filed in the Office of the City Auditor.

Adopt Resolution Declaring Shared Use Path Necessary:

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

That it be and is hereby declared necessary to construct Shared Use Path Improvement District No. 5838 in the City of Fargo, North Dakota, according to the Plans and Specifications approved by the Board of City Commissioners of the City of Fargo, North Dakota, filed in the Office of the City Auditor, and open for public inspection.

That the entire cost of said improvement be specially assessed against the benefited property in said improvement district in amounts proportionate to and not exceeding the benefits to be derived by them respectively from said improvement.

Protests against the proposed Shared Use Path must be in writing and must be filed with the City Auditor's Office within thirty days after the first publication of this Resolution.

BE IT FURTHER RESOLVED, That the City Auditor's Office is hereby instructed to publish this Resolution, as required by law.

Direct City Auditor's Office to Call for Bids for Improvement District No. 5838:

Direct City Auditor's Office to publish a Notice, as required by law, calling for bids for the construction of Improvement District No. 5838, in the City of Fargo, North Dakota.

Second by Mahoney. On call of the roll Commissioners Piepkorn, Mahoney and Walaker voted aye.

Absent and not voting: Commissioners Wimmer and Williams.

The motion was declared carried.

Executive Session Regarding the Sauby and Freethinkers Cases:

City Attorney Erik Johnson announced that there are pending litigation matters to be discussed in Executive Session, specifically the Sauby and Freethinkers cases.

Commissioner Mahoney moved the Commissioners meet in Executive Session in the River Room as authorized by NDCC, Section 44-04-19.2 to discuss said pending litigation matters.

Second by Piepkorn. All the Commissioners present voted aye and the motion was declared carried.

At 4:04 p.m. the Board moved to the River Room to discuss the litigation matters in Executive Session.

Members present were: Mahoney, Piepkorn, Williams, Wimmer (via conference call) and Walaker.

The Executive Session closed at 4:32 o'clock p.m. and the Commission reconvened in public session.

Attorneys for the City in Sauby and Burns v. City of Fargo Authorized to Complete Negotiations with Counsel for the Plaintiff Class:

City Attorney Erik Johnson stated City staff met last week with the Federal Court staff regarding possible settlement conditions in the Sauby case. He said Judge Klein, as mediator, helped the City come to a resolution with the basic terms as stated in the motion and the final terms to be worked out at a later date.

Martin Wishnatsky stated the City has no reason to make a settlement on the grounds that the Federal Courts have no authority in this case.

Commissioner Mahoney moved attorneys for the City in Sauby and Burns v. City of Fargo be authorized to complete negotiations with counsel for the Plaintiff class for a settlement of that case that will include, but not be limited to:

1. a provision limiting the City's responsibility for refunds to participating, responding class members to 65 percent of the difference between the state and city fee schedules, subject to an overall limit of \$1.5 million;
2. provisions that allow the City to retain otherwise available refunds that are not claimed within a specified period of time after notice to the class members;
3. a provision stating that the City is not required to pay interest;
4. a provision giving the City responsibility to administer the settlement; and,
5. a provision that, subject to certain limits agreed upon by the parties, allows the Court to make an award of attorneys' fees and costs to Plaintiffs' counsel in an amount that the Court will set.

Second by Piepkorn. On call of the roll Commissioners Mahoney, Piepkorn, Williams and Walaker voted aye.

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Resolution Adopted Renaming 57th Street South between I-94 and 64th Avenue South Veterans Boulevard:

The Board received a communication from Senior Planner Jim Hinderaker stating, on March 2, 2009, the West Fargo City Commission unanimously voted to rename a two-mile section of roadway south of I-94, from 9th Street to Veterans Boulevard. He said this section of roadway separates two municipalities and was known as 9th Street in West Fargo and is currently named 57th Street South in Fargo. He stated with the construction of the new interchange at I-94 moving forward and the need to establish road name signage, staff is recommending the Fargo City Commission adopt Veterans Boulevard as the permanent name for this section of

roadway. In order to provide for street name continuity, he said staff is also recommending the Board take action to rename the two-mile section of 57th Street South between 40th Avenue South and 64th Avenue South to Veterans Boulevard.

Commissioner Piepkorn offered the following Resolution and moved its adoption:

BE IT RESOLVED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF FARGO:

WHEREAS, the City Commission of the City of Fargo, North Dakota, in order to bring uniformity to the name of 57th Street South (in West Fargo, 9th Street South) from Interstate 94 to 64th Avenue South, desires to change the above described name of the street from 57th Street South to Veterans Boulevard; and

WHEREAS, the City of West Fargo has approved a similar resolution so as to totally clarify that the name of Veterans Boulevard is accepted by both cities; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of City Commissioners of the City of Fargo, North Dakota, that the name of Fargo's former 57th Street South is changed to Veterans Boulevard between Interstate 94 and 64th Avenue South, and that the City Auditor file a certified copy of this resolution with the County Auditor.

Second by Williams. On the vote being taken on the question of the adoption of the Resolution Commissioners Piepkorn, Mahoney, Williams and Walaker voted aye.

Absent and not voting: Commissioner Wimmer.

The Resolution was adopted.

Ryn Pitts and David Suppes Reappointed to the Fargo Dome Authority:

The Board received a communication from Mayor Walaker recommending that Ryn Pitts and David Suppes be reappointed to the Fargo Dome Authority.

Commissioner Mahoney moved the reappointment of Ryn Pitts and David Suppes to the Fargo Dome Authority for terms ending April 1, 2013 be approved.

Second by Piepkorn. On call of the roll Commissioners Mahoney, Piepkorn, Williams and Walaker voted aye.

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Jana Tronier and Michael Lochow Appointed to the Fargo Access Channel Board:

The Board received a communication from Mayor Walaker recommending that Jana Tronier and Michael Lochow be appointed to the Fargo Access Channel Board to fill the unexpired terms of Bryan Duncan and Ted (John T.) Schulz.

Commissioner Williams moved the appointments of Jana Tronier for the term ending June 30, 2011 and Michael Lochow for the term ending June 30, 2010 to the Fargo Access Channel Board be approved.

Second by Piepkorn. On call of the roll Commissioners Williams, Piepkorn, Mahoney and Walaker voted aye.

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Transit Capital Stimulus Budget and Contract for Five 35' Buses from New Flyer Approved:

The Board received a communication from Planning Director Jim Gilmour stating the Federal Transit Administration published the amount of stimulus funds that will be available for transit capital projects. The allocation for Fargo, he said, is \$2,460,032 and his recommendations after review of the Transit Capital Improvement Plan would be to budget as follows:

Replace 5 Buses @ \$365,000	\$1,825,000
Replace Fare Box System	\$450,000
Service Truck	\$30,000
Bus Shelters/Other Equipment	\$72,032
Senior Van	\$23,000
Handi-Wheels Bus	\$60,000
TOTAL	\$2,460,032

Mr. Gilmour said it is important the projects are implemented to meet federal requirements and obtain delivery dates for vehicles as soon as possible. He said the recommendation is for the City of Fargo to obtain options and order five, 35' buses from New Flyer using the existing contract. The contract price is \$353,496 per bus, but it may vary based on the delivery date and decisions on optional equipment, he said.

Commissioner Williams moved approval of the transit capital stimulus budget and contract for five 35' buses from New Flyer.

Second by Piepkorn. On call of the roll Commissioners Williams, Piepkorn, Mahoney and Walaker voted aye.

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Application to Transfer the Alcoholic Beverage License from B.E.L. Holdings, Inc. d/b/a Isabella's to Stella's, Inc. Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "F" Alcoholic Beverage License from B.E.L. Holdings, Inc. d/b/a Isabella's at 608 1st Avenue North to Stella's, Inc. notice of which had been duly published in the official newspaper for the City of Fargo.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

Commissioner Piepkorn moved the application be approved.

Second by Williams. On call of the roll Commissioners Piepkorn, Williams, Mahoney and Walaker voted aye.

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Application to Transfer the Alcoholic Beverage License from Fargo Seafood Ventures, LLC d/b/a Up the Creek Grill Seafood & Steaks to Applefar South, Inc. d/b/a Applebee's Neighborhood Grill and Bar Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "FA" Alcoholic Beverage License from Fargo Seafood Ventures, LLC d/b/a Up

the Creek Grill Seafood & Steaks at 2350 45th Street South to Applefar South, Inc. d/b/a Applebee's Neighborhood Grill and Bar notice of which had been duly published in the official newspaper for the City of Fargo.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

Commissioner Piepkorn moved the application be approved.

Second by Williams. On call of the roll Commissioners Piepkorn, Williams, Mahoney and Walaker voted aye.

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

Application to Transfer the Alcoholic Beverage License from Divot's, Inc. d/b/a Divot's at Osgood to DJJ Ventures, LLC d/b/a Justy's BBQ & Grill Approved:

A Hearing had been set for this day and hour on an application to transfer the Class "FA-Golf" Alcoholic Beverage License from Divot's, Inc. d/b/a Divot's at Osgood at 4400 Clubhouse Drive South to DJJ Ventures, LLC d/b/a Justy's BBQ & Grill notice of which had been duly published in the official newspaper for the City of Fargo.

No written protest or objection to the granting of the application has been received or filed in the office of the City Auditor, and said application has been approved by the Police Department as to the character of the applicant.

The Board determined that no person is present at this Hearing to protest or offer objection to the granting of the application.

Commissioner Piepkorn moved the application be approved.

Second by Williams. On call of the roll Commissioners Piepkorn, Williams, Mahoney and Walaker voted aye.

Absent and not voting: Commissioner Wimmer.

The motion was declared carried.

City of Fargo's Section 5307 Federal Transportation Administration Grant Preliminary Program of Projects for 2009 Approved:

A Hearing had been set for this day and hour to consider the City's Section 5307 Federal Transportation Administration grant preliminary program of projects for 2009.

The Board determined that there have been no written or verbal protests and no one is present to protest thereto.

The Board received a communication from Transit Administrator Julie Bommelman stating the Federal Transit Administration will make available to the City \$1,858,858 to be used for the transit system. She said the City of Fargo is required to hold a public hearing prior to submitting this application. She said the Program of Projects, which she attached, was developed by the Transit Division to be submitted with the application for the funds.

Commissioner Williams moved the Program of Projects for 2009 and Federal Transit Grant Award of \$1,858,858 be approved.

Second by Mahoney. On call of the roll Commissioners Williams, Mahoney, Piepkorn and Walaker voted aye.

Absent and not voting: Commissioner Wimmer.
The motion was declared carried.

Item No. 7 Delayed Until April 6, 2009:

Item No. 7 (Appeal of the February 11, 2009 Planning Commission Decision to Deny the Appeal of a Staff Decision to Approve the FM City Development Project on 12th Avenue North) was delayed until April 6, 2009.

Flood Update Received:

City Administrator Pat Zavoral gave an update on the flood outlook for the City of Fargo. He said the City and County are in full operation mode and the City will open the Fargodome as an extra sandbagging site tonight. He said the National Guard is bringing in a product, the Hesco system, to help with diking level areas. Mr. Zavoral said he is optimistic the entire City will be covered by Thursday.

2009 Legislative Issues Discussed:

City Administrator Pat Zavoral reviewed the matrix indicating the 2009 Legislative Bills that the City supports and opposes.

Commissioner Mahoney moved that the Board adjourn to 5:00 o'clock p.m., Monday, April 6, 2009.

Second by Williams. All the Commissioners present voted aye and the motion was declared carried.

The time at adjournment was o o'clock p.m.